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Reinforcing the Rule of Law and Human Rights in Mexico through U.S. Special Operations Forces Missions

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REINFORCING THE RULE OF LAW AND HUMAN RIGHTS IN MEXICO THROUGH U.S. SPECIAL OPERATIONS FORCES MISSIONS

Kevin H. Govern*

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Abstract

This article will assess the roles and responsibilities of Special Operations Forces (SOF) within Mexico, as an active proponent of a so-called “smart power” national security strategy. In particular, it will outline the economic, political, and military challenges faced in Mexico, and specifically how and why SOF, under the new Special Operations Command Northern Command (SOCNORTH),¹ should become the U.S. force of choice for promoting the rule of law and human rights in Mexico. With the goals of the U.S. military in mind, questions will necessarily arise as to “what success looks like” for both the United States and Mexico and the

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1. See, e.g., Otis W. McGregor III, Naval Postgraduate School Thesis, Command And Control Of Special Operations Forces Missions In The US Northern Command Area Of Responsibility, 78 (Mar. 2005) (unpublished thesis, Naval Postgraduate School), available at <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA432342>.

roles of each in joint and combined civil-military initiatives. Concluding comments reflect on how these forces must model “what right looks like,” and the imperative that SOF operations in Mexico meet legal and doctrinal criteria for successful mission accomplishment.

I. Advanced Operational Base-Central America (AOB-CENTAM)—
A Model for SOCNORTH Operations?

THE DoD Dictionary of Military and Associated Terms defines Unified Combatant Command (UCC)—or Unified Command—as a:

command with a broad continuing mission under a single commander and composed of significant assigned components of two or more Military Departments that is established and so designated by the President, through the Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff. Also called unified combatant command.²

The National Security Act of 1947 was the first piece of legislation to mention so-called “unified combatant commands,” which have broad, continuing missions and are composed of forces from two or more military departments, as well as “specified combatant commands,” which are composed of forces from a single military department.³ An outline of these commands’ authorities and responsibilities comes in Title 10, U.S. Code section 161 et seq.⁴ The Goldwater-Nichols Department of Defense (DoD) Reorganization Act of 1986,⁵ sponsored by Senator Barry Goldwater and Representative Bill Nichols, was the most significant defense reorganization after the National Security Act of 1947. Of particular significance to defense strategy and policy, this Act centralized the operational authority of the Chairman of the Joint Chiefs of Staff (CJCS), made the CJCS principal military advisor to the President, National Security Council, and Secretary of Defense, and streamlined the operational chain of command from the President to the Secretary of Defense to the UCC commanders.⁶ The UCCs appointed by the President carry full authority unless otherwise directed by the President or Secretary, and, ac-

2. DEP’T OF DEFENSE, DICTIONARY OF MILITARY AND ASSOCIATED TERMS, JOINT PUBLICATION 1-02, 292 (Nov. 8, 2010, as amended through July 16, 2013), available at http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf.

3. 10 U.S.C. § 161 (2007); see DEP’T OF DEFENSE, *supra* note 2, at 487; see also National Security Act of 1947, 50 U.S.C. § 401 (Aug. 3, 2007), available at <http://www.intelligence.senate.gov/nsaact1947.pdf>.

4. 10 U.S.C. § 161 (2007); see DEP’T OF DEFENSE, *supra* note 2, at 487; see also National Security Act of 1947, 50 U.S.C. § 401 (Aug. 3, 2007), available at <http://www.intelligence.senate.gov/nsaact1947.pdf>.

5. Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, 100 Stat. 992 (1986), available at http://www.nsa.gov/about/cryptologic_heritage/60th/interactive_timeline/Content/1980s/documents/19861001_1980_Doc_NDU.pdf?

6. *Id.*; see also JOINT STAFF OFFICER INFORMATION CENTER, GUIDING DOCUMENTS AND AUTHORITIES available at http://www.jsotrainig.us/jso101/docs/MOD%204_

cording to Title 10, each is directly responsible for carrying out missions assigned to the command.⁷

The DoD Dictionary of Military and Associated Terms defines UCP as “[t]he document, approved by the President, that sets forth basic guidance to all unified combatant commanders; establishes their missions, responsibilities, and force structure; delineates the general geographical area of responsibility for geographic combatant commanders; and specifies functional responsibilities for functional combatant commanders.”⁸ At the time of this article’s writing, there were ten UCCs: four organized as functional commands, and six geographical commands, to include U.S. Northern Command (NORTHCOM) and U.S. Southern Command (US-SOUTHCOM), as depicted below:

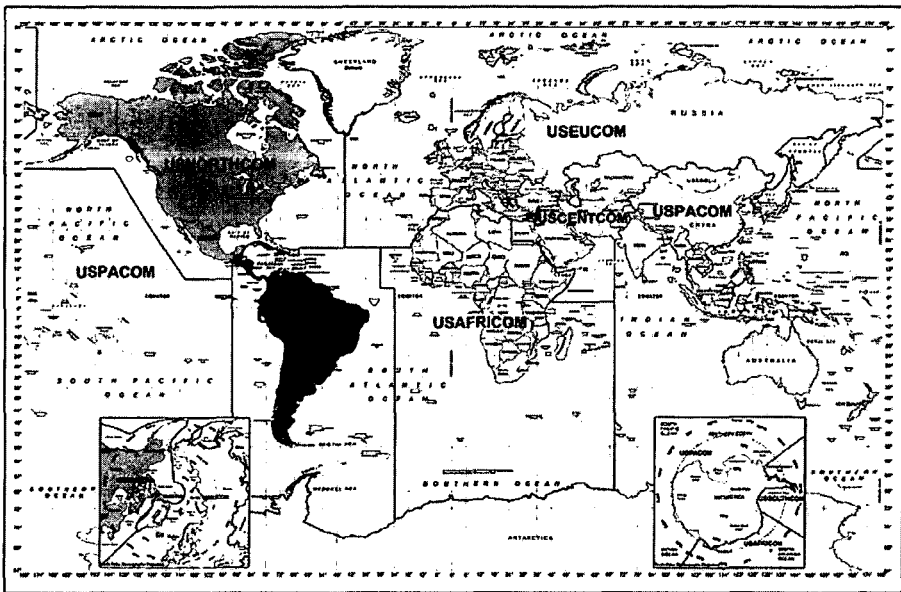


Figure 1: Unified Command Plan—2011—Commander’s Areas of Responsibility⁹

Guiding%20Docs_T3%20Guiding%20Documents%20and%20Authorities%20List.pdf.

7. 10 U.S.C. § 164 (2010); *see also* *The U.S. Military Presence Abroad*, 8 Congressional Digest—International Debates 6 (Sept. 2010), available at <http://congressionaldigest.com/issue/the-u-s-military-presence-abroad/u-s-unified-combatant-commands/>.
8. DEP’T OF DEFENSE, *supra* note 2, at 284.
9. *Unified Command Plan*, U.S. DEP’T OF DEFENSE, http://www.defense.gov/home/features/2009/0109_unifiedcommand/ (last updated Apr. 27, 2011). United States Special Operations Command (USSOCOM) is not a geographic combatant command, but rather one of the functional commands. According to the USSOCOM History:

The Department of Defense (DoD) activated U.S. Special Operations Command (USSOCOM) April 16, 1987, at MacDill Air Force Base, Fla. DoD created the new unified command in response to congressional action in the Goldwater-Nichols Defense Reorganization Act of 1986 and the Nunn-Cohen Amendment to the National Defense Authorization Act of 1987. Congress mandated a new four-star command be activated

The geographic combatant commands established Theater Special Operations Commands (TSOCs or, more simply, SOC)s as subordinate unified commands in the 1980s.¹⁰ As the former Commander of U.S. Special Operations Command (USSOCOM) described,

[i]n general, each SOC exercises operational control of assigned forces, has responsibility for SOF-peculiar logistical requirements of assigned forces, and forms the core of a joint special operations task force able to act independently or as the special operations component of a larger joint/combined task force. Ultimately, the theater SOC)s are responsible to CINCs for integrating and employing SOF in theater plans.¹¹

The theater SOC for USSOUTHCOM is Special Operations Command—South (SOCSOUTH), “which is responsible for planning and executing mission command for Operation Enduring Freedom-Caribbean/Central America (CCA).”¹² The Advanced Operational Base-Central America (AOB-CENTAM) is a Special Forces base located in Soto Cano, Honduras, in operation for the past thirty years.¹³ At present, a Special Forces Operational Detachment-Bravo (SFODB), “AOB-CENTAM operates alongside Joint Task Force Bravo [JTF-B] and commands and controls SOF in nearly every country in Central America, from Guatemala to Panama,”¹⁴ and is task-organized to reflect the long historical record of

to prepare Special Operations Forces (SOF) to carry out assigned missions and, if directed by the president or secretary of defense (SECDEF), to plan for and conduct special operations.

United States Special Operations Command History, USSOCOM, <http://www.socom.mil/Pages/AboutUSSOCOM.aspx> (last visited Nov. 17, 2013). Component commands under USSOCOM include:

Approximately 57,000 active duty, Reserve and National Guard Soldiers, Sailors, Airmen, Marines and DoD civilians assigned to the headquarters, its four components and one sub-unified command. USSOCOM’s components are U.S. Army Special Operations Command (USASOC), Naval Special Warfare Command (NAVSPECWARCOM), Air Force Special Operations Command (AFSOC) and Marine Corps Forces Special Operations Command (MARSOC). The Joint Special Operations Command (JSOC) is a USSOCOM sub-unified command.

Id.

10. See, e.g., Henry H. Shelton, *Coming of Age: Theater Special Operations Commands*, JOINT FORCES Q., 51 (Winter 1996–97), available at <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA528704>. Note: Shelton was the Commander-in-Chief (a term no longer used except by the President of the United States), United States Special Operations Command (USSOCOM) at the time of that article’s writing. On October 24, 2002, then-Secretary of Defense Donald H. Rumsfeld announced his decision that the use of “commander-in-chief” would thereafter be reserved for the president only. See Jim Garamone, “CINC” Is Sunk, AMERICAN FORCES PRESS SERVICE (Oct. 25, 2002), <http://www.defense.gov/News/NewsArticle.aspx?ID=42568>.

11. Shelton, *supra* note 10, at 51.

12. Robert M. Kirila, *Ahead of the Guns: SOF in Central America*, SPECIAL WARFARE, Oct.–Dec. 2012, at 17, available at <http://www.militarynewsnetwork.com/publications/specialwarfare100112.pdf>.

13. *Id.*

14. *Id.* at 17. See also Lt. Col. Shawn Satterfield, *OEF-CCA: Irregular Applications for USSOF Efforts*, SPECIAL WARFARE, Oct.–Dec. 2012, at 11–14, available at

SOF in Central America.¹⁵

“On December 31, 2012, Secretary of Defense Panetta approved a request by General Jacoby, the commander of [NORTHCOM], and Admiral McRaven, the commander of [USSOCOM], to establish a theater special operations command at NORTHCOM, subsequently designated Special Operations Command North (SOCNORTH).”¹⁶ When fully operational in 2014, the Colorado-based SOCNORTH will synchronize, coordinate, and deconflict any operation assigned to SOF within NORTHCOM, and will be the apportioned or assigned command and control structure for the conduct of special operations in its Area of Responsibility (AOR), which includes Mexico, the United States’ increasingly destabilized neighbor to the South.¹⁷ According to NORTHCOM

<http://www.militarynewsnetwork.com/publications/specialwarfare100112.pdf>.

Note:

The Special Forces company headquarters, also known as a Special Forces Operational Detachment Bravo, “B Detachment,” or “B Team,” is a multi-purpose C2 element with many employment options. It cannot isolate and deploy Special Forces teams independently without significant augmentation. A Special Forces Operational Detachment Alpha (“A Team”) cannot deploy or operate without the support of the B Team. The B Team consists of eleven personnel and is the headquarters element of the Special Forces Company. It acts as the command and control of the A Teams within the company. The B Team establishes and operates the Advanced Operational Base (AOB). The B Team can and does: plan and conduct SF operations separately or as part of a larger force; train and prepare Special Forces A-Teams for deployment; infiltrate and exfiltrate operational areas by air, land, or sea; conduct operations in remote areas and hostile environments for extended periods of time with minimal external direction or support; develop, organize, equip, train, and advise or direct indigenous combat forces up to regimental size in Special Operations (SO); and train, advise, and assist other US and allied forces and agencies.

See *Special Forces Operational Detachment Bravo (SFOD-B) “B Detachment” “B Team”*, GLOBALSECURITY.ORG, <http://www.globalsecurity.org/military/agency/army/b-team.htm> (last modified May 7, 2011).

15. Kirila, *supra* note 12, at 17.

16. *Special Operations Command North (SOCNORTH)*, GLOBALSECURITY.ORG (July 31, 2013), <http://www.globalsecurity.org/military/agency/dod/socnorth.htm>.

17. See, e.g., *Homeland Security*, JOINT PUBLICATION 3-26, II-7 (Aug. 2, 2005), available at http://dmna.ny.gov/plans_training/j5/General%20Interest/Selected%20Joint%20Pubs/JP_3-26_Homeland_Security_Aug_05.pdf (for NORTHCOM’s combatant command roles in Homeland Security); see also Gay N. McGillis, *Organizing NORTHCOM for Success: A Theater Special Operations Command*, SCHOOL OF ADVANCED MILITARY STUDIES, 9 (First Term AY 02–03), <http://www.dtic.mil/dtic/tr/fulltext/u2/a416189.pdf> (last visited Oct. 14, 2013). SOF core activities, in Mexico or anywhere SOF are deployed, may include the following:

Direct Action: Short-duration strikes and other small-scale offensive actions taken to seize, destroy, capture or recover in denied areas; Special Reconnaissance: Acquiring information concerning the capabilities, intentions and activities of an enemy; Unconventional Warfare: Operations conducted by, through and with surrogate forces that are organized, trained, equipped, supported and directed by external forces; Foreign Internal Defense: Providing training and other assistance to foreign governments and their militaries to enable the foreign government to provide for its country’s national security; Civil Affairs Operations: Activities that establish, maintain or influence relations between U.S. forces and foreign civil authorities and civilian populations to facilitate U.S.

officials, SOCNORTH “has already helped Mexican officials set up their own intelligence center in Mexico City to target criminal networks, patterned after similar centers in war zones built to target al-Qaida in Afghanistan and Iraq.”¹⁸ According to multiple current and former U.S. officials briefed on the mission, “[t]he new headquarters will also coordinate special operations troops when needed for domestic roles like rescuing survivors after a natural disaster, or helping the U.S. Coast Guard strike ships carrying suspect cargo just outside U.S. territorial waters.”¹⁹

II. The Economic, Political, And Military Challenges Faced In Mexico

Notwithstanding a general lack of media coverage in the United States about Mexico, “the gravity of the security situation in Mexico and its regional neighbors is significant,”²⁰ such that in “each of the past two years, there have been more violent deaths and more weapons recovered in Mexico than any other place on earth.”²¹ This creates the extreme potential for narco-crime-fueled violence in Mexico spreading into U.S. territory.²² Add to that a looming “potential of a large-scale human migration to the United States as a result of the spiraling violence,” as well as “infiltration by various non-state actors and, quite possibly, weapons of mass destruction into the United States.”²³ In response to these challenges, NORTHCOM must operate within, and in respect to Mexico, with a “power” approach that “underscores the necessity of a strong military, but also invests heavily in alliances, partnerships, and institutions at

military operations; Counterterrorism: Measures taken to prevent, deter and respond to terrorism; Psychological Operations: Operations that provide truthful information to foreign audiences that influence behavior in support of U.S. military operations; Information Operations: Operations designed to achieve information superiority by adversely affecting enemy information and systems while protecting U.S. information and systems; Counter-proliferation of Weapons of Mass Destruction: Actions taken to locate, seize, destroy or capture, recover and render such weapons safe; Security Force Assistance: Unified action by joint, interagency, intergovernmental and multinational community to sustain and assist host nation or regional security forces in support of a legitimate authority; Counterinsurgency Operations: Those military, paramilitary, political, economic, psychological and civic actions taken by a government to defeat insurgency, and; Activities Specified by the President or SECDEF.

United States Special Operations Command History, *supra* note 9.

18. Kimberly Dozier, *US Commandos Boost Numbers to Train Mexican Forces*, AP.ORG (Jan. 17, 2013), <http://bigstory.ap.org/article/us-commandos-boost-numbers-train-mexican-forces>.

19. *Id.*

20. Kirila, *supra* note 12, at 16.

21. *Id.*

22. Clay T. Fimiani, U.S. Northern Command’s Security Role in Mexico: An Indirect Approach to Building Capacity Among the Mexican Military, 2 (May 4, 2011) (unpublished thesis, Naval War College), available at <http://www.hsdl.org/?view&did=709500>.

23. *Id.*; see also Tom Bowman, *CIA and Pentagon Wonder: Could Mexico Implode?* NPR (Feb. 27, 2009), <http://www.npr.org/templates/story/story.php?storyId=101215537> (cited with authority by Fimiani, *supra* note 22).

all levels to expand American influence and establish the legitimacy of American action.”²⁴ It must also develop integrated strategies (civil-military), resource bases (economic, political, and military), and tool kits (military and diplomatic capabilities) to achieve American objectives.²⁵

Regarding Mexican narco-crime violence, “[d]rug trafficking, once dominated by Colombian cartels, is now dominated by Mexican criminal organizations like *Los Zetas* [(Zetas / Zs)] and the *Sinaloa* and Gulf cartels [*Cártel del Golfo*, *Golfos*, or CDG (Gulf) cartels].”²⁶ These cartels’ worldwide expansion “has generated massive amounts of profit and firmly establishe[d] these cartels as illicit multinational corporations . . . run by intelligent and ruthless chief executives [who are] . . . super-empowered non-state actors.”²⁷ “Mexican cartels have taken advantage of the high state of corruption or low level of competency that exists in many of the local, regional and sometimes national-level governments throughout Central America.”²⁸ Driven by the strategic necessity to counter these challenges and U.S. policy considerations of retaining a minimal “footprint” in Mexico, the U.S. military has quietly adapted its procedures to primarily employ SOF with great effectiveness, in conjunction with selected conventional forces, to advance NORTHCOM initiatives.

Following the SOCSOUTH model, “AOB-CENTAM commands and controls and synchronizes USSOF in Central America alongside partnership military and paramilitary forces . . . [and the] lines of operation for all of the elements under the mission command of AOB-CENTAM are [to] build capability and capacity, build influence and counter transnational threats.”²⁹ SOCNORTH will need to conduct programs “to prevent extremists from capitalizing on political discontent, ethnic rivalries and economic frustration to fuel their strategy of terror and violence in [the AOR].”³⁰ SOCNORTH, like OEF-CCA, will need to conduct joint operations, in which ARSOF and other military elements and entities can participate,³¹ as well as interagency efforts as a result of the involvement of the Drug Enforcement Administration, the U.S. Agency for International Development, and SOUTHCOM Military Groups in planning, coordinating, and/or executing missions in Mexico.³² Finally, SOCNORTH must facilitate the combined participation of U.S. and Mexican host-na-

24. RICHARD L. ARMITAGE ET AL., CTR. FOR STRATEGIC & INT’L STUDIES, CSIS COMMISSION ON SMART POWER 7 (2007), available at http://csis.org/files/media/csis/pubs/071106_csissmartpowerreport.pdf.

25. *Id.*

26. Kirila, *supra* note 12, at 16 (emphasis added).

27. *Id.*

28. *Id.*

29. *Id.* at 17.

30. John M. Doyle, *Special Operations: Shrinking World, Growing Problems*, 4GWAR, (Nov. 14, 2012, 10:48 PM), <http://4gwar.wordpress.com/2012/11/14/special-operations-shrinking-world-growing-problems/>.

31. Kirila, *supra* note 12, at 17.

32. *Id.*

tion diplomatic, military, and other agencies,³³ including trusted *Fuerzas Armadas de Mexico* (Mexican Armed Forces) and *Policía Federal* (Federal Police) elements, whereby multiple agencies interweave agendas and objectives by personally meeting with, coordinating, synchronizing, and demonstrating the achievements of the disparate objectives to local, national, and regional policy makers.³⁴

Foreign Internal Defense (FID) is one of Army Special Operations Forces' (ARSOF) core tasks³⁵ involving "[p]articipation by civilian and military agencies of a government in any of the action programs taken by another government or other designated organization to free and protect its society from subversion, lawlessness, insurgency, terrorism and other threats to its security."³⁶ Its primary intent is to

help the legitimate governing body address internal threats and their underlying causes through a host-nation, or HN, program of internal defense and development . . . not restricted to times of conflict . . . [as] an umbrella concept that covers a broad range of activities, potentially including the conduct of all other ARSOF core activities.³⁷

Special Operations Doctrine expert Jeffrey Hassler describes FID as "a whole-of-U.S. government effort approach based in law [that] is not a subordinate activity to counterinsurgency (COIN);³⁸ that is, "[c]omprehensive civilian and military efforts taken to defeat an insurgency and to address any core grievances."³⁹ The unique skills organic to SOF elements contribute to the development of partner nation capabilities with a long-term objective of building and sustaining capability to conduct unilateral operations against threats to national or regional security.⁴⁰

As the U.S. Joint Special Operations University (JSOU) has pointed out, U.S.-Mexican military relations have changed fundamentally in recent years, largely as "a consequence of mutually identified threats, outreach programs that have fostered joint understandings, and Mexican military transformation efforts that both countries judge as essential for

33. *Id.*

34. *Id.* See also Ginger Thompson, Randal C. Archibold & Eric Schmitt, *Hand of U.S. Is Seen in Halting General's Rise*, N.Y. TIMES, Feb. 4, 2013, at A1, available at <http://www.nytimes.com/2013/02/05/world/americas/us-stepped-in-to-halt-mexican-generals-rise.html>.

35. DEP'T OF DEFENSE, *supra* note 2, at 19, 107. See also DEP'T OF THE ARMY, ARMY SPECIAL OPERATIONS FORCES FM 3-05 (100-25) 2-2 (2011). The foreign internal defense definition is paraphrased. Definitions from both references are similar.

36. DEP'T OF DEFENSE, *supra* note 2, at 107.

37. Jeffrey Hassler, *Defining War 2011*, 24 SPECIAL WARFARE (Jan.-Feb. 2011), available at <http://www.soc.mil/swcs/swmag/archive/SW2401/SW2401DefiningWar.html>.

38. *Id.*

39. DEP'T OF DEFENSE, *supra* note 2 at 62 (defining counterinsurgency). Conversely, "insurgency" is defined as "[t]he organized use of subversion and violence by a group or movement that seeks to overthrow or force change of a governing authority. Insurgency can also refer to the group itself." *Id.* at 134.

40. See Hassler, *supra* note 36.

promoting national and regional security.”⁴¹ Mexican SOF in particular—as well as selected law enforcement components—have received substantial U.S. military support, in the guise of “homologation of SOF tactics, techniques, and procedures, mutual understanding and cooperation is fostered through education,” especially, but not exclusively, from JSOU—the education component of the USSOCOM.⁴² JSOU assesses that “[i]n the current environment of insurgency, narco trafficking, and a threatened government under stress, educational activities represent an effective ‘indirect approach’ toward achieving national interests.”⁴³

To that end, any action in Mexico by U.S. authorities must thus be at the request and under the control of Mexican authorities, and Attorney General Eric Holder vowed in 2011 to look into Mexico forbidding U.S. law enforcement officers from carrying guns into Mexico stating, “[w]e will look at this and we’ll do . . . an analysis of what it is that we need to do to make sure that everybody is as safe down there as we can make them.”⁴⁴ National Intelligence Center Admiral James Winnefeld, former head of NORTHCOM, wrote that the United States is eager to work with Mexico, but “the very first question we ask is whether or not it would infringe in any way on Mexico’s sovereignty or rule of law. The answer, quite simply, must be ‘No, it does not.’”⁴⁵ Collectively and individually, Mexico will continue to raise many challenges surrounding the balance between military power, civil society, and the rule of law. With the goals of the U.S. military in mind, questions will necessarily arise as to “what success looks like” for both the United States and Mexico and the roles of each in joint and combined civil-military initiatives.⁴⁶

III. Surveying The Need For A SOCNORTH Effort To Promote Human Rights And Rule Of Law In Mexico

Center for International Policy expert Laura Carlsen opines that “Mexico is currently confronting a human rights crisis” with media headlines

41. GRAHAM H. TURBIVILLE, JR., JOINT SPECIAL OPERATIONS UNIV., U.S. MILITARY ENGAGEMENT WITH MEXICO: UNEASY PAST AND CHALLENGING FUTURE, ix (Oct. 2, 2010), available at http://www.globalsecurity.org/military/library/report/2010/1003_jsou-report-10-2.pdf.

42. *Id.* at x.

43. *Id.*

44. Jim Koun, *Mexico Bans U.S. Law Enforcement Officials from Carrying Guns*, EXAMINER.COM, (Feb. 20, 2011), <http://www.examiner.com/article/mexico-bans-u-s-law-enforcement-officials-from-carrying-guns>; but see Ronald Ostrow & Douglas Jehl, *Mexico Says U.S. Agents May Carry Guns: Drugs: They Also Will Have Diplomatic Immunity as Part of the Two Countries’ Stepped-Up Cooperation on Anti-Narcotics*, L.A. TIMES, June 29, 1990 at 17, available at http://articles.latimes.com/1990-06-29/news/mn-664_1_diplomatic-immunity.

45. NORTHCOM reassures Mexico over Drone Flights, ASSOCIATED PRESS (Mar. 18, 2011), <http://www.airforcetimes.com/news/2011/03/ap-uav-mexico-dug-surveillance-flight-031811/>.

46. For an analogous approach to U.S. Africa Command’s challenges, see Kevin Govern, *21st Century Africa as an “Arc Of (In)Stability”: U.S. and African Economic, Security, and Development Policies Advanced Through U.S. Mexico Command Initiatives*, 26 CONN. J. INT’L LAW 281 (2011).

highlighting “the overt violence that has claimed more than 50,000 lives since December 11, 2006, when President Felipe Calderón launched the war on drugs.”⁴⁷ The war on drugs’ origins and effects are complex, according to Carlsen, such that

beneath the bloodshed, the erosion of the rule of law and the systematic violation of human rights in the context of the armed conflict caused by the drug war has created a more profound crisis in Mexican society, one the causes and effects of which are not only ill-defined but often purposely obscured.⁴⁸

“In a series of ‘Joint Operations’ between Federal Police and Armed Forces, the Mexican government has deployed more than 45,000 troops into various regions of the country in an unprecedented domestic low-intensity conflict.”⁴⁹ In its efforts, the Mexican federal government “continues to define a semi-permanent role for the Armed Forces in the drug war, which in the absence of a declared state of emergency is difficult to justify,”⁵⁰ with a situation compounded by Armed Forces

trained in a war model that posits annihilation of an identifiable enemy, [yet] deployed to communities where civilians are defined as suspected enemies, soldiers and officers [and which] have responded too often with arbitrary arrests, personal agendas and corruption, ex-

47. Laura Carlsen, *Mexico’s False Dilemma: Human Rights or Security* Laura Carlsen, 10 NW. U. J. INT’L HUM. RTS. 146, 146 (2012), available at <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1128&context=njihr>.

48. *Id.* Estimates of the total that have died in connection with the fighting over the last six years range from 47,000 to more than 70,000, in addition to thousands of disappearances.

The Mexican government frequently uses the figure 50,000. Several government agencies provide information, but are often contradictory and not up-to-date. The President’s office counts ‘deaths from presumed rivalries between delinquents.’ This recently created speculative category, which the government webpage is quick to note ‘makes no imputations of a legal character,’ does not list national totals. See Base de Datos de Fallecimientos, Presidencia de la República, <http://www.presidencia.gob.mx/base-de-datos-de-fallecimientos/> (last visited Mar. 30, 2012). Walter McKay, a former police officer at WM Consulting in Mexico City monitors press accounts to create a meticulous narco-killing mapping process that registered 54,064 victims as of March 2012. See *Narco Killings*, WM Consulting, <https://sites.google.com/site/policerereform/narco-killings> (last visited Nov. 18, 2013). The Tijuana investigative reporting magazine *Zeta* concludes that the December number is 60,420, using a composite of official sources. *Quinto Año de Gobierno: 60 mil 420 Ejecuciones*, ZETA (Dec. 12, 2011), <http://www.zetatijuana.com/2011/12/12/quinto-ano-de-gobierno-60-mil-420-ejecuciones/>. For an article in English on the early Operation Michoacán, see Sara Miller Llana, *Mexican Army Invades Pot Plantations*, USA TODAY (Dec. 21, 2006), http://www.usatoday.com/news/world/2006-12-21-mexico-drug-effort_x.htm.

See *id.* at 146 n.1–2.

49. *Id.* at 146. 45,000 is the most frequently quoted figure. See, e.g., *Polarization and Sustained Violence in Mexico’s Cartel War*, STRATFOR GLOBAL INTELLIGENCE (Jan. 24, 2012), available at www.stratfor.com/analysis/polarization-and-sustained-violence-mexicos-cartel-war.

50. Carlsen, *supra* note 47, at 147.

trajudicial executions, the use of torture, and excessive use of force.⁵¹

In January 2013, Mexico's Interior Minister, Miguel Ángel Osorio Chong, announced plans to form a new intelligence agency analogous to the United States' Central Intelligence Agency (CIA) but with a domestic focus, the new National Intelligence Center (*Centro Nacional de Inteligencia*, or CNI).⁵² CNI's mission is to fight organized crime, and it "will act as a central collection point for intelligence collected by all other intelligence and justice entities in Mexico, including the police, military, Attorney General's Office, and other federal and state agencies."⁵³

A not-entirely-satisfactory solution has been efforts to try all resulting cases

related to military personnel in military tribunals, known as the *fuero militar* or military exemption from civil prosecution, [which] inhibits legal and social accountability and in practice has led to a very low prosecution rate. Human Rights Watch (HRW) reports that of 3,671 investigations opened in the military court system between 2007 and 2011, only 29 resulted in convictions of soldiers,⁵⁴

a result derived from "cronyism and favoritism to manipulate the organs of law enforcement and judicial systems, or flaunt international efforts to advance and promote justice."⁵⁵

The National Commission on Human Rights (NCHR), HRW, and local and state human rights groups also report major increases in forced disappearances, torture and extrajudicial executions, many allegedly perpetrated by Mexican security forces . . . [with a] 70 percent increase in complaints of human rights violations [especially arbitrary arrest, torture, and extortion] between 2010–2011 compared to the previous level, the majority of which were filed registered against security forces, especially the Federal Police and Army.⁵⁶

51. *Id.*

52. See, e.g., Robert Morton, *Mexico Creates CIA Spy Agency*, EXAMINER.COM (Jan. 23, 2013), <http://www.examiner.com/article/mexico-creates-cia-spy-agency>.

53. *Id.*

54. Carlsen, *supra* note 47, at 147–48.; see also José Miguel Vivanco, *Mexico: Letter to Senate on Military Justice Reform*, HUMAN RIGHTS WATCH, (Apr. 10, 2012), <http://www.hrw.org/news/2012/04/10/mexico-letter-senate-military-justice-reform>.

55. Kevin H. Govern, *Smart Power for Hard Problems: The Role of Special Operations Forces Strengthening the Rule of Law and Human Rights in Africa* (2012) at 5, <https://www.law.upenn.edu/live/files/1926-new-governsmartpowerforhardproblemsafricapdf>.

56. Carlsen, *supra* note 47, at 148–49; see also Vivanco, *supra* note 54 (citing *Cabrera García and Montiel Flores v. México*, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 220, ¶ 200 (Nov. 26, 2010), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_220_ing.pdf). This is consistent with the views of the United Nations and other international human rights bodies. In the draft principles on military justice adopted by the former United Nations Human Rights Commission, principle No. 9 states that, "[i]n all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes." Special

Carlsen further cited that “[t]he NCHR has registered 475 forced disappearances in September 2011, compared to some four to six cases in 2006.”⁵⁷ By way of contrast, unpublished *Procuraduría General de la República-PGR* (Attorney General Office) documents show that “more than 25,000 adults and children have gone missing in Mexico in the past six years.”⁵⁸ This should be viewed in the context that disappearance cases are widely underreported, and the “[Mexican] federal government does not register forced disappearances, nor are they investigated in most cases.”⁵⁹ Carlson further posits that,

[a]ccording to the Ministry of Defense, the Army receives an average of four human rights complaints a day as a result of its involvement in the drug war [with the] . . . total number of complaints registered by the NCHR against the army since the start of the drug war under the Calderón administration [at] 5,055 by mid-2011; only 79 recommendations had been issued.⁶⁰

In the U.S. Department of State’s estimation,

[t]he most serious human rights issues in the country arose from the fight against organized crime, which involved frequent clashes between security forces and Transnational Criminal Organizations (TCOs) . . . [and, in] multiple instances, TCOs used brutal tactics against members of the public. TCOs remained the most significant perpetrators of violent crimes in the country, showing disregard for civilian casualties, engaging in human trafficking, and intimidating journalists and human rights defenders with violence and threats.⁶¹ Sometimes in the context of the fight against TCOs, but also at times unrelated to it, security forces reportedly engaged in unlawful killings, forced disappearances, and instances of physical abuse and

Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, *Report on Draft Principles Governing the Administration of Justice Through Military Tribunals*, Comm’n on Human Rights, U.N. Doc. E/CN.4/2006/58 (Jan. 13, 2006) (by Emmanuel Decaux).

57. Carlsen, *supra* note 47 at 149 (citation omitted).

58. William Booth, *Mexico’s Crime Wave Has Left About 25,000 Missing, Government Documents Show*, THE WASHINGTON POST, Nov. 29, 2012, http://www.washingtonpost.com/world/the_americas/mexicos-crime-wave-has-left-up-to-25000-missing-government-documents-show/2012/11/29/7ca4ee44-3a6a-11e2-9258-ac7c78d5c680_story.html.

59. Carlsen, *supra* note 47, at 149 (citation omitted). Carlsen further notes: some major violations of human rights cannot be successfully prosecuted due to gaps in the law. Neither femicide, which rose notably during the drug war period, nor forced disappearances are typified as such under the law. Currently femicides and disappearances are registered as kidnappings or missing person reports. As a result, the kidnapping unit of the Attorney General’s Office (PGR) is overwhelmed and forced disappearances are not counted. Forced disappearances are not classified as a specific crime under Mexican federal law. Some Mexican states are thus moving to pass specific laws on forced disappearances and human rights groups in Mexico have called for a national law as well.

Id. at 150 (citations omitted).

60. *Id.* (citations omitted)

61. *Id.*

torture.⁶²

Notwithstanding Mexico's own National Human Rights Commission's (CNDH) role as Mexico's national human rights institution, there is still a pernicious prevalence of "kidnappings; physical abuse; poor, overcrowded prison conditions; arbitrary arrest[s] and detention[s]; corruption and lack of transparency that engendered impunity within the judicial system; and confessions coerced through torture."⁶³ Underlying and related societal problems include "killings of women; domestic violence; threats and violence against journalists and social media users, leading to self-censorship in some cases; trafficking in persons; social and economic discrimination against some members of the indigenous population; and child labor."⁶⁴ The U.S. Department of State noted in 2012 that "[d]espite some arrests for corruption, widespread impunity for human rights abuses by officials remained a problem in both civilian and military jurisdictions."⁶⁵

As part of the solution—and perhaps part of the problem—Human Rights Watch opines that Mexico's military and police have committed "widespread human rights violations in their efforts to combat violent drug cartels—including killings, torture and disappearances—which have only exacerbated a climate of lawlessness and fear in many parts of the country,"⁶⁶ such that "[t]hese violations persist, and in fact have increased, because the members of security forces who commit them are virtually never held accountable."⁶⁷ In their efforts to report these abuses and cartel violence, "[h]uman rights defenders and journalists . . . are targeted for attack by criminal groups and members of security forces alike,"⁶⁸ without the state protecting these groups or investigating the crimes committed against them.⁶⁹

According to the Mexican Attorney General's Office, there were "12,456 homicides in 2010, and a cumulative of 30,196 homicides since December 2006 when Felipe Calderón became president of Mexico and deployed military forces to combat drug cartels."⁷⁰ Amnesty International (AI) noted the number of deaths in 2010 alone represented 41.2 percent of the total number of homicides since 2006, thus 2010 became the worst year in Mexican history for criminal violence.⁷¹ AI further

62. U.S. DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2012, MEXICO 1, *available at* <http://www.state.gov/documents/organization/186738.pdf> (last visited Nov. 18, 2013).

63. *Id.*

64. *Id.*

65. *Id.*

66. HUMAN RIGHTS WATCH, WORLD REPORT 2012: MEXICO (Jan. 7, 2013), <http://www.hrw.org/americas/mexico>.

67. *Id.*

68. *Id.*

69. *Id.*

70. *Mexico Human Rights*, AMNESTY INT'L, <http://www.amnestyusa.org/our-work/countries/americas/mexico> (last visited Nov. 18, 2013).

71. *Id.*

noted reports of mass abduction of Central American migrants prompted the governments of “Guatemala and El Salvador to call on the Mexican government for accountability for the treatment of migrants crossing Mexico,”⁷² resulting in the Inter-American Court of Human Rights issuing ground-breaking rulings against Mexico in seven cases involving grave human rights violations, three of which were held in 2010.⁷³

The United Nations Working Group on enforced or involuntary disappearances warned that “[e]nforced disappearances in Mexico have happened in the past and continue to happen today . . . [under a] chronic pattern of impunity demonstrated by the absence of effective investigations in cases of enforced disappearances.”⁷⁴ The Group exhorted Mexico to “recogni[z]e the scale of the problem as a first step in developing comprehensive and effective measures to eradicate it,” that “[t]his challenging situation cannot be confronted if respect for human rights is ignored” and that it is necessary to launch appropriate and thorough criminal investigations on enforced disappearances as well as to build public trust in the justice system, the Public Ministries, the police, and the armed forces.⁷⁵ In the wake of organized crime, 47,515 people lost their lives during the six-year presidency of Felipe Calderón, but with numbers declining.⁷⁶

On a positive note, The United Nations High Commissioner for Human Rights, Navi Pillay, “welcomed the promulgation of Mexico’s new Law for the Protection of Human Rights Defenders and Journalists

72. *Id.*

73. These cases have involved “violations of the right to liberty, personal integrity, due process and judicial protection.” See, e.g., *Inter-American Court of Human Rights Issues Sentence in Mexican Case Involving Ecologists Rodolfo Montiel and Teodoro Cabrera*, Washington Office on Latin America (Dec. 21, 2010), http://www.wola.org/inter_american_court_of_human_rights_issues_sentence_in_mexican_case_involving_ecologists_rodolfo_mo. The most recent case taken to the IACHR was a May 2013 application filed in Case No. 12,288, García Cruz and Sánchez Silvestre, Mexico. See Press Release, Inter-American Commission on Human Rights, IACHR Takes Case Involving Mexico to the Inter-American Court (May 9, 2013), available at http://www.oas.org/en/iachr/media_center/PReleases/2013/033.asp (“The facts of this case refer to the illegal detention and torture of Juan García Cruz and Santiago Sánchez Silvestre, as well as their subsequent convictions for three years and 40 years in prison, following two criminal trials where no due process was observed, in particular because of the use of confessions obtained under torture and the lack of investigation and the failure to punish the allegations of torture.”).

74. *UN Experts Express Concern for Impunity in Cases of Enforced Disappearances in Mexico*, UNITED NATIONS HUMAN RIGHTS (Mar. 14, 2012), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11963&LangID=E>.

75. *Id.*

76. *Mexican Daily: Nearly 60,000 Drug War Deaths Under Calderon*, FOX NEWS LATINO (Nov. 1, 2012), <http://latino.foxnews.com/latino/news/2012/11/01/mexican-daily-nearly-60000-drug-war-deaths-under-calderon/#ixzz2eooEUahb> (“Based on its own calculations, the Monterrey-based newspaper [Milenio Daily] also put the number of drug war-related homicides thus far in 2012 at 10,485 and said 888 people were killed in October, the second-lowest monthly total [for 2012].”).

and called for its immediate implementation.”⁷⁷ The legislation signed into law by President Calderón

aims to protect the life, integrity, liberty and security of those at risk because of their work defending and promoting human rights, or for exercising their right to freedom of expression, [and] builds on previous efforts by the Government and civil society to create a national protection mechanism—including the presidential decree that set the foundations for it, which was signed . . . in July 2011. . . . Pillay stressed that the protection measures established by the Law must be accompanied by effective measures to combat impunity in Mexico.⁷⁸

Despite the fact that “human rights violations such as enforced disappearances, torture, arbitrary detentions and lack of access to justice became routine during the previous administration,”⁷⁹ it appears that Mexican President Enrique Peña Nieto’s “positive discourse regarding human rights, including commitments to move ahead with the General Victim’s Law and reform of laws criminalizing enforced disappearances, are welcome but promises and good intentions are not enough to eradicate and prevent human rights violations.”⁸⁰ Only time—and effort—will tell whether the Peña Nieto government can and will strengthen rule of law and respect and protect human rights in Mexico to a greater extent than his predecessors, especially in the realms of enhancing public security, reforming military justice, promoting human rights defenders, protecting migrants, eradicating government use of torture and “disappearances,” ending criminal impunity and violence towards women, protecting indigenous peoples, and complying with binding judgments of the Inter-American Court of Human Rights.⁸¹

IV. Measures of Effectiveness for SOF Rule of Law and Human Rights Missions in Mexico

In their mix of direct and indirect approaches to promote stability and security, advancing the rule of law and human rights in Mexico, SOF will face tremendous ambiguity in knowing “what right looks like.” Absent specified rule of law tasks, SOF may look to doctrine on what constitutes

77. *Pillay Welcomes Law for the Protection of Human Rights Defenders and Journalists in Mexico*, UNITED NATIONS HUMAN RIGHTS (June 22, 2012), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12279&LangID=E>.

78. *Id.*

79. Press Release, Carolyn Lang, AMNESTY INT’L, *New Mexican President Enrique Peña Nieto Must Break with Legacy of Human Rights Violations* (Dec. 18, 2012), <http://www.amnestyusa.org/news/press-releases/new-mexican-president-enrique-pena-nieto-must-break-with-legacy-of-human-rights-violations>.

80. *Id.* See also Carlsen, *supra* note 47, at 151 (“The 2005 National Security Law in Mexico places national security as the priority, and defines national security in Article 3: ‘For the effects of this Law, national security is understood as the actions destined to immediately and directly maintain the integrity, stability and permanence of the Mexican State’” (citing *Ley de Seguridad Nacional [L.S.N.] [National Security Law]*, art/ 3, *Diario Oficial de la Federación [D.O.]*, 31 de Enero de 2005 (Mex.)).

81. See generally AMNESTY INT’L, *supra* note 79.

rule of law: “[r]ule of law is a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights principles.”⁸²

This Army doctrinal definition is, for all intents and purposes, the same as the U.S. Government (USG) interagency definition,⁸³ and the U.S. Army’s *Rule of Law Handbook* breaks rule of law into seven effects:

- “the state monopolizes the use of force in the resolution of disputes;”
- “individuals are secure in their persons and property;”
- “the state is itself bound by law and does not act arbitrarily;”
- “the law can be readily determined and is stable enough to allow individuals to plan their affairs;”
- “individuals have meaningful access to an effective and impartial legal system;”
- “the state protects basic human rights and fundamental freedoms;” and
- “individuals rely on the existence of justice institutions and the content of law in the conduct of their daily lives.”⁸⁴

SOF provide an indirect approach contributing to supporting inter-agency diplomacy and development efforts, and, in doing so, SOF must

82. U.S. DEP’T OF THE ARMY, FM 3-07, STABILITY OPERATIONS 1–9 (2008) *available at* <http://usacac.army.mil/cac2/repository/FM307/FM3-07.pdf> (*cited with authority in* THE JUDGE ADVOCATE GENERAL’S LEGAL CENTER & SCHOOL, U.S. ARMY, RULE OF LAW HANDBOOK 3 (2011) *available at* http://www.loc.gov/rr/frd/Military_Law/pdf/rule-of-law_2011.pdf (“This definition was also adopted by the Corps. Commander in Iraq as early as 2006. See Appendix 2 to Annex G to MNC-I Operation Order 06-03.”) (definition based in part on U.N. Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, ¶ 6, U.N. Doc. S/2004/616 (Aug. 23, 2004), *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement> (“[The rule of law] refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”))).

83. U.S. AGENCY FOR INT’L DEV., SECURITY SECTOR REFORM 4 (2009), *available at* <http://www.state.gov/documents/organization/115810.pdf> (“Rule of Law is a principle under which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights law”) (*cited with authority in* RULE OF LAW HANDBOOK, *supra* note 82, at 4).

84. U.S. DEP’T OF THE ARMY, *supra* note 82 at 1–9; RULE OF LAW HANDBOOK, *supra* note 82, at 3, 4 n.12 (“[o]f the many definitions of the rule of law in common use, the list of seven effects resembles JANE STROMSETH, DAVID WIPPMAN & ROSA BROOKS, CAN MIGHT MAKE RIGHTS?: BUILDING THE RULE OF LAW AFTER MILITARY INTERVENTIONS 78 (2006)”).

scrupulously demonstrate the highest legal, ethical, and moral standards in personal and professional conduct. What better way to hold the “high ground” than to encourage those being trained and those advised to do likewise? SOF’s furtherance of rule of law and human rights, in every instance, can and must be measured against and meet the five SOF Mission Criteria:

- “it must be an appropriate mission or activity for SOF.”
- “the mission or activities should support the Joint Force Commander’s (JFC) campaign or operation plan, or special activities;”
- “the missions or tasks must be operationally feasible, approved, and fully coordinated;”
- “the required resources must be available to execute and support the SOF mission;” and
- “the expected outcome of the mission must justify the risks.”⁸⁵

In every instance, the United States must strive to support Mexico to find and implement Mexican solutions to Mexican problems wherever possible. As part of President Barack Obama’s visit to Mexico in May 2013, “[President] Peña Nieto said . . . his government remains committed to fighting organized crime, but that the United States and Mexico must ‘cooperate on the basis of mutual respect, to be more efficient in our security strategy that we are implementing in Mexico.’”⁸⁶ Obama stressed cooperative ventures on security, vowing he “agreed to continue [the United States’] close cooperation on security, even as that nature of that close cooperation will evolve,” with the caveat that “[i]t’s up to the Mexican people . . . ‘to determine their security structures and how it engages with other nations, including the United States.’”⁸⁷

V. Conclusion

The United States’ effective use of SOF in Mexico will likely mean, as it has in other AORs, fewer *in extremis* requirements for direct action/targeted killing of terrorists and other persons threatening U.S. national

85. U.S. DEP’T OF DEF., SPECIAL OPERATIONS, JOINT PUBLICATION 3-05 x (Apr. 18, 2011), available at http://www.dtic.mil/doctrine/new_pubs/jp3_05.pdf.

86. Dan Merica & Catherine E. Shoichet, ‘A New Mexico is Emerging,’ *Obama Says; Speech Addresses Immigration, Education*, CNN (May 4, 2013), <http://www.cnn.com/2013/05/03/world/americas/mexico-obama-visit>.

87. *Id.* See also Adam Isacson, “Special Operations Command North” to Work with Mexico’s Military, JUST THE FACTS (Jan. 18, 2013), <http://justf.org/blog/2013/01/18/special-operations-command-north-work-mexicos-military>. Isacson opines that this SOCNORTH role in Mexico brings up three points:

1. It signals a closer relationship with Mexico’s Defense Department (SEDENA) under the new leadership that came in with President Enrique Peña Nieto
2. It appears that one of SOCNORTH’s first tasks is helping the Peña Nieto government to stand up a new intelligence unit within the Interior Ministry
3. This is an emblematic indication that the Obama administration’s “light footprint” strategy is moving ahead.

Id.

security and more missions across the spectrum of operations.⁸⁸ SOF will play an indispensable role in aiding Mexican nations with “foreign internal defense” missions, which consists of “participation by civilian and military agencies of a government in any of the action programs taken by another government or other designated organization, to free and protect its society from subversion, lawlessness, insurgency, terrorism, and other threats to its security.”⁸⁹ As challenges in Mexico arise and continue, NORTHCOM’s need for SOF will increase—with or without a SOCNORTH—utilizing SOF’s highly trained, culturally astute, superbly disciplined, uniformed service members to promote and maintain a vigilant and active peace.

Operating in joint, combined, and interagency operations, SOF “diplomat-warriors” can coordinate and synchronize U.S. military activities with U.S. diplomatic and economic initiatives to eliminate the root causes of terrorism, rather than exclusively targeting the symptomatic expressions of terror in Mexico and elsewhere abroad. SOF will continue to play a vital role prescriptively promoting the rule of law and human rights as well as economic opportunity, health, and the peaceful resolution of conflict, while maintaining the capability to deliberately and carefully tailor uses of authorized, licit force around the world.⁹⁰

88. Kevin Govern, *Operation Neptune Spear: Was Killing Bin Laden A Legitimate Military Objective?*, in *TARGETED KILLINGS—LAW AND MORALITY IN AN ASYMMETRICAL WORLD* 373 n.148 (Claire Finkelstein et al., eds., 2012), available at <http://militarylegitimacyreview.com/wp-content/uploads/2012/08/Govern-71.pdf> (“‘In-extremis’ refers to a situation of such exceptional urgency that immediate action must be taken to minimize imminent loss of life or catastrophic degradation of the political or military situation.”).

89. U.S. DEP’T OF DEF., *FOREIGN INTERNAL DEFENSE, JOINT PUBLICATION 3-22* ix (2012), available at http://www.fas.org/irp/doddir/dod/jp3_22.pdf.

90. Govern, *supra* note 46, at 285.

Comment

